IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT
THE HON'BLE MS JUSTICE G.ROHINI
WRIT PETITION NO : 3333 of 2005

Between:
Gandhi Institute of Technology and Management (GITAM)
Gandhinagar Campus, Yendada, Visakhapatnam, being rep.by its
Secretary C.Venkataramaiah, S/o.Chinnayya, R/o.Visakhapatnam.
... PETITIONER

AND

1. The Mandal Revenue officer, Visakhapatnam Rural Mandal, Visakhapatnam
   District.
2. The District Collector, Visakhapatnam, Visakhapatman District.
3. The Commissioner of Land Revenue, Hyderabad.
4. The government of A.P., rep.by Secretary, Revenue Department, Secretariat,
   Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in demolishing the compound wall of the petitioner existing for the last 20 years without following due process of law in true spirit and without giving reasonable opportunity even to approach the competent authority for alienation of the said land in an extent of Ac.7.40 cents in survey No.19 (part) 20(part) and 16(part) of Yendada village, Visakhapatnam Rural Mandal Visakhapatnam District, as clearly shown in the survey sketch as illegal, arbitrary capricious and unjust and violative of principles of natural justice and the consequential attempt to dispossess the petitioner from the said land and attempting to allot the said land to the 3rd parties such as A.P.Tourism Department or any other person pending consideration of the petitioner's application for allotment and alienation of the said land to the petitioner for market value as illegal, arbitrary and violative of

principles of natural justice and consequently to direct the respondents to consider the application made by the petitioner dated 21-02-2005 for alienation of the said land in favour of the petitioner for market value within the time fixed by this Hon'ble court or to pass any other order or orders.

Counsel for the Petitioner: SMT.N.(P).ANJANA DEVI, SATYANARAYANA

Counsel for the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following:

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ORDER:

This writ petition is filed aggrieved by the action of the first respondent-Mandal Revenue Officer, in demolishing the compound wall of the petitioner-institution without following due process of law as arbitrary and illegal.

As can be seen from the material on record, the first respondent initiated proceedings under the provisions of the A.P. Land Encroachment Act, on the ground that the petitioner has encroached into the Government land to an extent of Ac.6.09 cents, situated in Sy.No.19 part and 20 part of Yendada Village, Visakhapatnam Rural Mandal, Visakhapatnam District. A show cause notice dated 06-12-2004 was issued under Section 7 of the Act, calling upon the petitioner to show cause as to why he should not be removed from the said land. The petitioner states that he has submitted necessary explanation. However, since there was a threat of demolition, he filed W.P.No.23248 of 2004, which was disposed of by this Court by order dated 28-12-2004 with a direction to the respondent to conduct survey of the land in question afresh and after furnishing a copy of the survey report to the petitioner, to consider the explanation already submitted and to pass appropriate orders in accordance with law.

There is no dispute that in compliance with the orders of the Court, the land was surveyed and after furnishing a copy of the survey report to the petitioner, the first respondent has passed an order under

Section 6 of the Act on 18-02-2005 holding that the explanation submitted by the petitioner is not satisfactory and that the petitioner has no right in respect of the encroached land and accordingly authorising the Mandal Revenue Inspector to carryout eviction with the assistance of Mandal Surveyor and take possession of the property in question. In pursuance thereof, the Mandal Revenue Inspector has taken further steps and a part of the compound wall of the petitioner-institution was demolished. Aggrieved by the said action, this writ petition has been filed seeking a declaration that the action of the respondents is arbitrary and illegal.

The contention of the petitioner is that since the petitioner-institution has made a representation dated 21-02-2005 requesting to allot the land in question in their favour on payment of the market value, so as to enable the petitioner-institution to maintain the serenity of the educational institution being run by them, and the same is pending with the second respondent – District Collector, the respondents ought not to have resorted to demolition of the structures in question.

However, the learned Government Pleader for Revenue, under instructions, states that in pursuance of the order dated 18-02-2005 passed by the first respondent, a team of surveyors have identified the encroached lands and after evicting the petitioner the land was resumed and as per the directions of the District Collector, Visakhapatnam, the same was handed over to the Tourism Department.

At the outset, it is to be noted that the petitioner states that they are not questioning the order dated 18-02-2005. Admittedly, they have not filed any Appeal against the said order nor it is under challenge in this writ petition. Thus, the said order has become final. Moreover, in pursuance of the said order, the land in question has already been taken possession by the respondents. Hence, I am of the view that the

Mandamus as prayed for cannot be granted. However, keeping in view the plea of the petitioner that they have made a representation dated 21-02-2005 for allotment of the said land in their favour, I deem it appropriate to dispose of the writ petition with a direction to the second respondent-District Collector, to consider the request of the petitioner and pass appropriate orders, in accordance with law, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion as to the entitlement of the petitioner for allotment as sought by them and it is open to the 2nd respondent to pass appropriate orders in accordance with law.

The writ petition is accordingly disposed of. No order as to costs.

G. ROHINI, J

Dated: 23-02-2005
Note: Furnish C.C. by tomorrow.
B/o.
LSK

ASSISTANT REGISTRAR

To
1. The Mandal Revenue officer, Visakhapatnam Rural Mandal, Visakhapatnam
District.
2. The District Collector, Visakhapatnam, Visakhapatman District.
3. The Commissioner of Land Revenue, Hyderabad.
4. The Secretary, Revenue Department, the Government of A.P, Secretariat,
Hyderabad.
5. Two C.Cs. to the Government Pleader for Revenue, High Court Buildings,
Hyderabad. (O.U.T.)
6. Two C.D. copies.